



State of California
Gray Davis, Governor
Business, Transportation and Housing Agency

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M E M O R A N D U M

Date: September 3, 2003

To: All Knox-Keene Licensed Plans

From: G. Lewis Chartrand, Jr.,
Assistant Deputy Director

**RE: Plan Disclosure of Personal Health Information to the Department of
Managed Health Care**

Plan employees have raised questions regarding whether enrollee personal health information can be disclosed to the Department of Managed Health Care. The obligation of plans to disclose information, including personal health information, to the Department of Managed Health Care as required by state law is not impeded by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Title 45 CFR section 164.512(d)(1) permits covered entities (plans) to disclose private health information to a health oversight agency (the DMHC) for oversight activities including audits, civil, administrative or criminal investigations, inspections, licensure or disciplinary actions, or other activities necessary for the oversight of the health-care system, government benefit programs, compliance with governmental regulation or compliance with civil rights laws.

Plans may reasonably rely on an agency identification badge, official credentials, written requests or other proof of Departmental status to verify the identity of a Department representative. No further identification is required.

If the disclosure is to a contractor of the Department, a written statement on appropriate letterhead or other evidence or documentation of agency, such as a contract for services, memorandum of understanding, or purchase order, establishing that the person is acting on behalf of the Department is sufficient.

The Department is not required to have a business associate agreement with plans. The Department is not acting on behalf of the covered entity, but under a grant of authority under federal and state law. Department representatives are not required to sign confidentiality agreements in order to access personal health information maintained by plans.